in *Dickey* v. *Florida*, 398 U.S. 30, 39, 48–50), this is not the case. As the opinion of the court below makes clear (see 421 F. 2d at 798) a large portion of the delay was because petitioner was a fugitive and, after his capture, was tried and convicted of bail jumping (in July 1966). He is hardly in a position to argue that he was entitled to a trial on the narcotics charges first. Moreover, at no point has petitioner alleged that any prejudice stemmed from the delay (Pet. in No. 478, p. 19). In these circumstances, no further review is warranted.[4] See *United States* v. *Ewell*, 383 U.S. 116, 120, 122.

4. Petitioner Guanti complains that his co-conspirators' claim of withdrawal from the conspiracy in argument before the judge implied that (a) there was a conspiracy and (b) Guanti was still a member of it. He contends that he was thereby denied the right to "confrontation" by being tried jointly with these co-conspirators, notwithstanding that they did not testify. This argument which was apparently raised for the first time in a petition for rehearing is patently insubstantial.

Guanti also contends that testimony at trial by Hedges (an unindicted co-conspirator) concerning what "others did or said to him" violated his right to

---

U.S. 1057) repudiate the demand requirement. The word "request" was used synonymously with "demand", and the government in *Mansell* maintained that a motion to dismiss for lack of a speedy trial was inappropriate where a prior demand had not been made.

[4] The similar contention by petitioner Sherbicki is equally insubstantial in view of the factual context. Sherbicki's first two motions related to the delay caused by his own failure to appear at trial; his subsequent motions were made after the case had been scheduled for trial (J.A. 163). See also 421 F. 2d at 800.

confrontation (Pet. in No. 5591, p. 3). Hedges' testimony was, however, admissible under the co-conspirator exception to the hearsay and confrontation requirements. Cf. *Dutton* v. *Evans*, No. 10, set down for reargument this Term. Guanti's further contention that his participation in the conspiracy was not proved is answered by the trial record. The evidence showed that he was extensively involved in the criminal scheme as an active member with knowledge of the conspiracy's purposes and membership (*e.g.*, J.A. 100a–102a, 147a–149a, 154a–155a).

It is therefore respectfully submitted that the petitions for writs of certiorari be denied.

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1970.